

Proposition 34 Reporting Information for State Candidates

FPPC Fact Sheet 34-01

Proposition 34, which took effect January 1, 2001, added contribution limits, voluntary expenditure limits and made other major changes to the Political Reform Act. This fact sheet summarizes many of the new reporting requirements for candidates for state elective offices.

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While we hope you find it useful, candidates should not rely solely on this newsletter. The Commission continues to issue new regulations and opinions interpreting Proposition 34. Continue to refer to the Political Reform Act (Government Code sections 81000-91014), FPPC regulations (Title 2, Division 6, of the California Code of Regulations), and updated information available on the FPPC web site, www.fppc.ca.gov.

Note that under the provisions of Proposition 34, contribution limits and voluntary expenditure limits do not take effect for candidates for statewide elective office until November 6, 2002. However, other major provisions are in effect now for all candidates for state offices. Additional requirements for all state candidates were enacted on September 4, 2001 as a result of a new state law, SB 34 (Stats. 2001, Chapter 241), and are incorporated in this fact sheet.

1. New Electronic Reporting Requirements (All State Candidates)

State candidates who raise or spend \$50,000 or more are required to electronically file their campaign reports with the Secretary of State. For these candidates, new electronic reporting requirements are in effect, including:

- ◆ **\$5,000 Reports:** Beginning immediately, if you receive a contribution of \$5,000 or more from a single contributor at any time other than during an election cycle, you must electronically report the contribution to the Secretary of State *within 10 business days*. For purposes of this requirement “election cycle” means the period of time commencing 90 days prior to an election and ending on the date of the election. (Section 85204.)
- ◆ **\$1,000 Reports:** Beginning 90 days before an election (December 5, 2001, for the March 2002 statewide primary), if you receive a contribution of \$1,000 or more from a single contributor, you must electronically report the contribution to the Secretary of State *within 24 hours*.

Example: On November 27, 2001, a candidate for Lt. Governor on the March 5, 2002, ballot received a contribution of \$6,000. Within 10 business days, the candidate must electronically report the contribution to the Secretary of State. On December 19, 2001, the candidate received a contribution of \$10,000. Within 24 hours, the candidate must electronically report the contribution to the Secretary of State.

Notes:

1. The Commission has not yet interpreted the new requirements of SB 34. Until it does so, we are advising that the new electronic reporting requirements apply to a **single** contribution of \$5,000 or \$1,000, respectively. Two \$500 contributions from a single contributor will not trigger the \$1,000 Report **until the late contribution reporting period** (the last 16 days before an election). During this late period, contributions **totaling** \$1,000 or more from a single source must be reported within 24 hours. This advice may change when the Commission considers SB 34—check our website or toll-free advice line for the latest information.
2. The new \$1,000 and \$5,000 Reports are not required to be filed on paper. However, Late Contribution Reports must be filed on paper as well as electronically.
3. A candidate's contributions of personal funds to his or her campaign must be reported under these requirements.
4. Candidates who have not reached the \$50,000 threshold for electronic filing of campaign reports are not required to file the \$5,000 Report or the \$1,000 Report. All candidates must file Late Contribution Reports.
5. After the 2002 primary election, \$5,000 Reports are required until August 7, 2002 (90 days before the general election), when the \$1,000 reporting period begins again for candidates in the general election. Candidates not running in the general election continue filing the \$5,000 Reports. Following the general election, \$5,000 Reports are required for all candidates. Proposition 34 restricts post-election fundraising to debt repayment (see Regulation 18536.1) or legal defense fund contributions (see Regulation 18530.4).

2. Accepting Voluntary Expenditure Limits (Senate and Assembly Elections)

Proposition 34 Voluntary Expenditure Limits Per Election

Office	Primary/Special	General/Runoff
State Senate	\$600,000	\$900,000
State Assembly	\$400,000	\$700,000

The revised Form 501 (Candidate Intention) now includes a section for state candidates to indicate whether they will comply with the new voluntary expenditure limits. State Senate and Assembly candidates who accept the expenditure limit will be identified as such in the voter information portion of the sample ballot and may purchase space to place a 250-word statement there.

Lifting the Expenditure Limits:

If a candidate contributes personal funds to his or her campaign in excess of the limit for that election, the limit **will be lifted** for opponents who have accepted it. A candidate who contributes personal funds over the expenditure limit must notify the Secretary of State within 24 hours by delivering (either personally or by guaranteed overnight service) an amended Form 501 stating the date his or her personal funds exceeded the limits. (See Regulation 18542.)

If a candidate accepts the voluntary expenditure limit for an election and then exceeds the limit, the candidate has violated the Political Reform Act and may be fined up to \$5,000 per violation.

However, this does not lift the expenditure limit for other candidates in the election.

Notes:

1. A candidate must accept or decline the expenditure limits for both the primary and general (or special and special runoff) elections at the time of filing his or her initial Form 501. This decision cannot be changed except by a candidate who (a) declined the limit for the primary (special) election but did not exceed it; and (b) amends his or her Form 501 within 14 days after the primary (special) election to accept the limit for the general (special runoff) election.
2. If you are a state candidate and filed Form 501 for the 2002 state elections prior to issuance of the revised form, file an amended Form 501 immediately to state whether you are accepting the voluntary expenditure limit.
3. Expenditures counted toward the limits are those made by the campaign committee established for election to that particular state office. **All** expenditures for that office and election must be made by the candidate's designated campaign committee. Campaign expenditures for a state office may not be made by other committees controlled by the candidate.

3. Form 460 Reporting Changes

FPPC Form 460 (Recipient Committee Campaign Statement) has undergone major changes due to Proposition 34 and other legislation. Candidates and committees now must report outstanding loans on every campaign statement (Schedules B and H) until they are paid in full. Also, the threshold for itemizing subvendor payments (Schedules E, F, and G) has been raised from \$100 to \$500.

Form 460 Summary Page

Line 22—Cumulative Expenditures Made

A candidate who has accepted the voluntary expenditure limits must disclose additional information on the Form 460 Summary Page. On Line 22, enter the total amount of primary or special election-related expenditures made through the end of the current campaign reporting period. Also enter the total amount of general or special runoff election-related expenditures. Enter a separate total for each election. (Candidates for statewide elective office are not required to report these totals prior to November 6, 2002.)

Example:

Expenditure Limit Summary for State Candidates	
22. Cumulative Expenditures Made* (If Subject to Voluntary Expenditure Limit)	
Date of Election (mm/dd/yy)	Total to Date
3 / 5 / 02	\$ 123,486
11 / 5 / 02	\$ 245,982

All expenditures related to campaign activities must be counted. These include expenditures for:

- ◆ Communications that contain express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.
- ◆ Communications that contain reference to the candidate's candidacy for elective office or election campaign, or the candidate's or opponent's qualifications for elective office.
- ◆ Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.
- ◆ Arranging, coordinating, developing, writing, distributing, preparing, or planning any communication or activity described above.
- ◆ Recruiting or coordinating campaign volunteers.
- ◆ Preparing campaign budgets.
- ◆ Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

Nonmonetary contributions received for goods or services described above also must be included in the total except for those received from a political party. In addition, goods or services received during a reporting period for which no payment has been made (accrued expenses) must be counted. Once an accrued expense has been reported on Line 22, do not count the expense again when it is paid.

The Commission is scheduled to consider a proposed regulation (Regulation 18540) on October 11, 2001, that may include additional items, such as overhead expenses.

Notes:

1. Expenditures not counted toward the expenditure limits include candidate filing and ballot statement fees, campaign statement preparation and electronic filing costs, contributions to other candidates, officeholder expenses, and other non-campaign expenditures.
2. Candidates are not required to allocate expenditures to a particular election on Schedules E and F. Calculate the expenditure total reported on Line 22 of the Summary Page at the end of each reporting period based on the guidelines discussed above. It is not necessary to amend a previously reported expenditure total to reflect any subsequent adjustments, such as refunds. Include the adjustments in the Line 22 expenditure total reported on the next campaign statement. A previously reported expenditure total must be amended if the report contained errors.
3. Candidates who have not accepted the voluntary expenditure limits are not required to complete Line 22. In addition, if a candidate files an amended Form 501 stating that he or she has contributed personal funds in excess of the expenditure limits, his or her opponents are no longer bound by the expenditure limits and are no longer required to complete Line 22.

Contributions Received — Schedules A, B, and C

Contributor Codes

Schedules A, B, and C contain codes for identifying different types of contributors. The existing codes (IND=Individual; COM=Committee; OTH=Other) have been expanded to include two new codes: PTY=Political Party, and SCC=Small Contributor Committee.

Per Election Totals

Candidates for elective state office are now required to disclose “per election” contribution totals for purposes of the contribution limits. For legislative offices, the contribution limits are \$3,000 per election. Small contributor committees may contribute \$6,000 per election. Contributions from political party committees are not limited. (Candidates for statewide elective office are not required to report these totals prior to November 6, 2002.)

For each itemized contribution, disclose in the “Per Election to Date” column the type of election, the year of the election, and amount received from the contributor for that election. For example, an Assembly candidate who receives a \$6,000 check intended for both the 2002 primary and general elections would disclose per election amounts of \$3,000 P-02 and \$3,000 G-02. Per election amounts are not calculated on a calendar year basis, and may include amounts received in a prior year. For example, a contribution received during 2001 for the 2002 primary election will be included in any per election amounts reported for that contributor during 2002. Contributions received prior to January 1, 2001, are not counted for purposes of the per election amounts.

Abbreviations for Disclosing Per Election Cumulative Amounts

P = Primary	2002 = 02
G = General	2003 = 03
S = Special	2004 = 04
R = Runoff	2005 = 05

The examples below are provided to clarify how the “per election” amounts should be shown. Assume the same committee received all of the contributions.

Schedule A (Monetary Contributions):

- ♦ Bob Smith contributed \$3,000 for the 2002 primary election in June 2001. In November 2001 he contributed \$3,000 for the 2002 general election. When itemizing the November 2001 contribution, disclose per election totals as: \$3,000 P-02 and \$3,000 G-02.

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER E.C. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
11/1/01	Bob Smith 123 Main Street Sacramento, CA 95814	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	President Main Street Bank	3,000	6,000	3,000 P-02 3,000 G-02

- ◆ Janice Bailey contributed \$1,000 in October 2002 for the 2002 general election. She made no contributions in connection with the primary election. When itemizing the contribution, disclose per election totals as: \$1,000 G-02.
- ◆ Linda Dixon contributed \$1,000 in January 2001 for the February 2001 special election, and in March 2001 she contributed \$2,000 for the special runoff election. In October 2001 she contributed \$6,000, which included \$3,000 to pay debt from the special and runoff elections, plus \$3,000 for the 2002 primary election. When itemizing the October contribution, disclose per election totals as: \$3,000 S-01; \$3,000 R-01; \$3,000 P-02.
- ◆ Kevin Bagley contributed \$2,000 in August 2001 for the 2002 primary election. Bagley had made a contribution in January 2001 for the candidate's 2001 special election. When itemizing the \$2,000 contribution, disclose per election totals as: \$2,000 P-02. (It is not necessary to include the special election contribution in this example because the special election is over and none of the August 2001 contribution was designated for that election.)
- ◆ James Medino, a state candidate, made a personal contribution of \$25,000 to his committee in October 2002 for the 2002 general election. In December 2001 he had made a \$50,000 personal contribution for the primary election. When itemizing the contribution for the general election, disclose per election totals as: \$50,000 P-02 and \$25,000 G-02.

Schedule B (Loans):

- ◆ Steve Jones made a \$3,000 loan in January 2002 for the 2002 primary election. In November 2002 Jones was repaid \$2,000. When itemizing the repayment, disclose a calendar year cumulative amount of \$3,000 and per election totals as: \$1,000 P-02.
- ◆ Dianne Walch made a loan of \$3,000 in January 2002 for the 2002 primary election. In December 2002, Walch forgave the full amount of the loan. When itemizing the forgiveness, report a calendar year cumulative amount of \$3,000 and per election totals as: \$3,000 P-02.

Schedule C (Nonmonetary Contributions):

- ◆ Suzi Lawrence made a loan of \$2,000 in June 2001 for the 2002 primary election. In November 2001 she made a nonmonetary contribution of \$1,000 for the 2002 primary election. When itemizing the nonmonetary contribution, disclose per election totals as: \$3,000 P-02.

4. Transfers Between Committees (Senate and Assembly Candidates)

A state candidate may transfer money between his or her controlled committees. Any funds held by a state office committee on January 1, 2001, may be used for the 2002 election or a future state election. The funds may be carried over if the bank account and committee were redesignated from an earlier state election to the 2002 election, or may be transferred if a new bank account and committee were set up.

Funds raised on or after January 1, 2001, or held in another type of election account (such as a committee established for a local election or an election for a statewide office), may be transferred, but are subject to contribution limits. The transferred funds must be attributed to specific contributors and count toward the amount those contributors may give to the committee receiving the transfer. (See FPPC Regulation 18536.)

The committee making the transfer must choose between two attribution methods. The first is “LIFO” (last in, first out). This means the amount the candidate wishes to transfer will be attributed to the most recent contributors to the transferring committee. The other method is “FIFO” (first in, first out), which means transferred funds will be attributed to the earliest contributors. Once the transferring committee has chosen LIFO or FIFO, it may not change the method of attribution. It is important to keep good records of transfer and attribution activities.

Example:

Abbe Winkler is a city councilmember running for State Assembly in the 2002 primary election. She wants to transfer \$10,000 from her city council committee to her State Assembly committee and has chosen the LIFO method of attribution.

<u>Contributor</u>	<u>Date of Original Contribution</u>	<u>Amount of Original Contribution</u>	<u>Amount of Transferred Funds Attributed to the Contributor</u>
Ted Smith	10/25/99	\$1,000	\$1,000
Wanda Smith	10/25/99	1,000	1,000
AZX Corporation	11/02/99	5,000	3,000
Abbe Winkler	12/5/99	5,000	5,000

Using this attribution method, AZX Corporation can make no additional contributions to Winkler’s primary election. Ted and Wanda Smith can each give Winkler another \$2,000 for the primary election.

The committee making a transfer must report the transfer as an expenditure on Schedule E of its campaign statements. The committee receiving the transfer must report detailed information about the transaction on Schedule A (Monetary Contributions), as shown in the example below.

Example:

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER LA NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NATURE OF BUSINESS)	AMOUNT RECEIVED THIS PERIOD	CUMULATIVE DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
10/30/01	Winkler for City Council (Transfer) 567 21st Street Sacramento, CA 95814 ID #123456	<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
10/25/99	Ted Smith 7239 Broadway Sacramento, CA 95816	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Retired	1,000	1,000	1,000 P-02
10/25/99	Wanda Smith 7239 Broadway Sacramento, CA 95816	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Retired	1,000	1,000	1,000 P-02
11/2/99	AZX Corporation 527 Bell Street Sacramento, CA 95825	<input type="checkbox"/> IND <input checked="" type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		3,000	3,000	3,000 P-02
12/5/99	Abbe Winkler 1450 Linden Road Sacramento, CA 95814	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Attorney Smith & Winkler	5,000	25,000	125,000 P-02

Note:

The example shows one method of reporting transferred contributions. Some electronic filing formats will be different.

5. After the Election—Raising Funds and Paying Debt

Contributions received after an election are subject to contribution limits and may not exceed net debts outstanding from the election. Carefully review FPPC Regulation 18531.6 for specific rules, including how net debts are calculated and restrictions on using funds raised after an election only to pay debt.

A committee established prior to January 1, 2001, for a State Senate or State Assembly election held prior to January 1, 2001, is not subject to the post-election fundraising limits. A committee for a statewide elective office established for an election held prior to November 6, 2002, also is not subject to section 85316.

6. Other Important Information

Carefully review the 2001 Addendum to Campaign Manuals A-E and the FPPC website regarding Proposition 34. In addition to the information provided in this newsletter, Proposition 34 added other important restrictions and requirements, including:

- ◆ Prohibition on contributions from lobbyists.
- ◆ Returning contributions if occupation and employer information is not obtained within 60 days.
- ◆ Prohibition on independent expenditures made by state candidates to support or oppose other candidates.
- ◆ Contributions from minors.
- ◆ Establishing a legal defense fund.

These and other issues will be discussed in detail in future issues of the Proposition 34 Fact Sheet.

Questions? Call the FPPC's toll-free Advice Line (1-866-ASK FPPC). The Political Reform Act, FPPC regulations, forms, manuals, fact sheets, and other important information can be found on the FPPC website at www.fppc.ca.gov.